

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Kyle Fellers, Anthony Foote,
Nicole Foote, and Eldon Rash,

Plaintiffs,

v.

Marcy Kelley, Michael Desilets, Matt Fisk,
Bow School District, Phillip Lamy & Steve
Rossetti,

Defendants.

Case No. 1:24-cv-311-SM-AJ

DECLARATION OF MICHAEL DESILETS

I, Michael Desilets, state as follows:

1. I am over the age of 18 and am of sound mind.
2. I am currently the Athletic Director of the Bow High School. In that capacity, I was aware of the passage of the law regarding transgender players in women's school sports and also the legal challenge to it brought by Plymouth soccer player Parker Tirrell. I also learned that the federal court had issued rulings allowing the player to participate in games this season.
3. On September 11, 2024, a parent of a Bow High School ("BHS") student contacted me, informing me that she had heard several Bow parents discussing protesting the decision when Parker's Plymouth team was scheduled to play Bow on September 17, 2024. The plans discussed reportedly included wearing dresses to the game, buying anti-trans gear, making signs, and generally heckling and intimidating the player.
4. Nicole Foote had previously contacted me seeking to talk about the possibility of a trans player being involved in the Plymouth soccer program. In advance of the Plymouth game I

reached out to and met with Nicole Foote to hear her concerns about the upcoming game.

5. In addition, on September 16, 2024, I emailed the soccer team parents to remind them of the rules that apply to those attending school sporting events.

6. I wrote, “I understand that there are some differing opinions regarding tomorrow’s game, and that is perfectly fine. Please understand that any inappropriate signs, references, language or anything else present at the game will not be tolerated.” I attached to my email a summary of the District’s obligation under the New Hampshire Interscholastic Athletic Associate (“NHIAA”) to follow NHIAA guidelines and policies, which include a commitment to play the teams on their schedule and a prohibition on forfeiting games. I also included language from the BHS Athletics Handbook, which provides: “It is the expectation of every fan to maintain a positive attitude, to treat players, coaches and officials with respect” and to “[s]trive to maintain positivity and not make it about anything or anyone else.”

7. Anthony Foote responded by email to me at 7:55 AM the next morning (September 17, 2024 – the day of the game). Foote stated: “I’m a leader, and a real leader doesn’t stand by while their players are thrown into harm’s way. You don’t let biological males – who are stronger, faster, and more physically dominant – compete against women. And you don’t sit around waiting for someone to get hurt before you take action.” He added, “I’m sick of your cowardice and your pandering” and warned, “Stand up for women, for real women, or get out of the way.” A true and accurate copy of this email (with some recipient addresses redacted for privacy) is attached hereto as Exhibit A.

8. Subsequently, Matthew Fisk and I observed photographs of wristbands that Foote posted on social media.

9. These included not only those adorned with the “XX” shared with the Court but

others that were marked with a female gender symbol and some bearing the term “NAD” – shorthand for “gonad.” A true and accurate copy of this photograph is attached hereto as Exhibit B.

10. On the afternoon of September 17 Anthony Foote arrived at the game early with a bag. He stood at the midfield sideline, where he was began handing wristbands out to adults as they arrived for the game. He attempted to do this discreetly.

11. After the first half ended, Foote went to his Jeep and put a poster of Riley Gaines, an outspoken critic of trans participation in women’s sports, on the windshield facing the field. When Foote returned he and Fellers put the wristbands on and stayed prominently at the sideline.

12. I approached Foote and advised him that he could not protest at the game and instructed him to take off the wristbands. Foote initially refused, challenging the basis for the request. Foote eventually removed the wristband and threw it at my feet. Foote was not ejected and stayed through the remainder of the game.

13. I then approached Fellers and asked him to remove his wristband. Fellers refused to do so. Principal Fisk then asked Fellers to remove the wristband also. Fellers still initially refused but eventually complied.

14. Fellers was not told to leave the game at that time. However, Fellers and Rash continued to argue about the wristband and Rash refused to take it off.

15. During this time, referee Steve Rossetti stopped the game. I approached Rossetti, who asked what was going on. I explained the situation and asked for time to try to reason with Rash.

16. I returned to the sideline where I continued to wait for Rash to comply. Fellers continued to argue with me, Fisk, and Lt. Lamy, seeking at one point to bring other spectators into

the confrontation, while Rash refused to remove the wristband. Fellers later told Fisk and/or me that he should be supporting women and called them cowards. I then asked Lt. Lamy to remove Fellers from the game. Fellers left the sidelines at that point. Rash, however, persisted in his refusal to remove his wristband.

17. Fisk and I informed Rossetti of Rash's insistence on wearing the wristband. I also informed the Plymouth coach on the field of the circumstances. The coach stated that if Parker learned the issue stopping the game was about her she would be devastated. Rosetti then came to the sideline and informed Rash that the behavior had disturbed the game causing him to stop play and that Rash needed to remove the wristband. Rash ignored him. He later did remove the wristband and the game resumed.

18. I soon learned that Fellers had not left the school grounds but had gone to his car, which was now parked near the field and roadway. He was holding a sign above his head. I asked Lt. Lamy to instruct Fellers to leave the premises.

19. The BHS fall sports calendar was set and released to the public in the summer. Plaintiffs were thus aware of – or at least had available to them – the dates of each game the Bow girls soccer team would be playing throughout the regular season. Those included not only the game against Plymouth on September 17, 2024, but games on September 20, 24, and October 1, 5, and the upcoming game on October 8, 2024.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 7, 2024

/s/ Michael Desilets
Michael Desilets